

AMENDED IN SENATE AUGUST 18, 2003

AMENDED IN SENATE JULY 16, 2003

AMENDED IN SENATE JULY 2, 2003

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1497

Introduced by Assembly Member Montanez
(~~Coauthor~~ Coauthors: Assembly Members ~~Levine~~ Diaz, Levine,
and Nunez)

February 21, 2003

An act to amend Sections 44004 and 45011 of, and to add Section 43501.5 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1497, as amended, Montanez. Solid waste facilities: permits.

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated solid waste management program. Existing law prohibits the operation of a solid waste facility without a solid waste facilities permit and requires the operator of a solid waste landfill to submit to the board and the enforcement agency a plan for the closure and postclosure maintenance of the solid waste landfill and evidence of financial ability to provide for those costs. Existing law prohibits the operator of a solid waste facility from making

any significant change in the design or operation of the solid waste facility not authorized by the existing permit, unless the change is approved by the enforcement agency, pursuant to a specified procedure.

This bill would require a person applying for a solid waste facilities permit to include, in the closure and postclosure plan, provisions for the ~~re-employment and retraining of that solid waste facility's contract employees, and~~ *preferential reemployment and transfer rights of displaced employees, as specified*, provisions to ensure ~~adequate~~ *that* resources are available for taking these actions, and provisions for an agreement to comply with existing statutory requirements for relocations, terminations, and mass layoffs that are applicable to certain employers.

The bill would require an enforcement agency to submit its proposed determination regarding whether a change to the solid waste facility will be approved to the board for comment, and to hold at least one public hearing on the proposed determination. The bill would also require the enforcement agency to submit an appeal of its determination to the board for comment, and to hold at least one public hearing on the appeal. The bill would require the enforcement agency to provide notice, as specified, of the hearing.

The bill would require the board to adopt regulations relating to the public hearing and that define the term “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit.” The bill would increase various time periods regarding the filing of an application for revision of the solid waste facilities permit.

The bill would impose a state-mandated local program by imposing new duties upon enforcement agencies with regard to solid waste facilities permits, thereby imposing a state-mandated local program.

(2) Existing law authorizes an enforcement agency to issue an order establishing a time schedule for a solid waste facility to comply with requirements relating to waste management when the enforcement agency determines that the facility is not meeting those requirements. Existing law authorizes the order to provide for an administrative civil penalty in an amount not to exceed \$5,000 per day of violation, and not to exceed a total of \$15,000 in any one calendar year, if compliance is not achieved in accordance with the time schedule. Existing law prohibits imposition of that penalty for the first 3 minor violations of the same requirement, as specified. Existing law requires the enforcement agency, before issuing an order imposing a civil or

administrative penalty, to notify the enforcement agency's governing body and make specified determinations regarding the circumstances of the violation and alternatives to the penalty.

This bill would delete the cap on the total amount of the penalty in one calendar year, delete the prohibition on imposing the penalty for minor violations, and delete the requirement that the enforcement agency take those actions before issuing the order imposing a civil or administrative penalty. The bill would broaden the circumstances under which the order imposing the penalty may be made. ~~The bill would require an enforcement agency prior to issuing an order that imposes a civil penalty, to notify the operator of the solid waste facility, and upon the request of that operator, meet with him or her to clarify regulation requirements and to determine what actions, if any, that the operator may voluntarily take to bring the facility into compliance by the earliest feasible date.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 43501.5 is added to the Public
- 2 Resources Code, to read:
- 3 43501.5. In addition to the requirements of this article, a
- 4 person applying for a solid waste facilities permit shall include, in
- 5 the closure and postclosure plan, ~~provisions for both~~ all of the
- 6 following:
- 7 ~~(a) Provisions for the re-employment and retraining of that~~
- 8 ~~solid waste facility's contract employees, including, but not~~
- 9 ~~limited to, truck drivers and haulers.~~
- 10 (a) Provisions that establish, subject to any requirements
- 11 already established pursuant to a collective bargaining
- 12 agreement, all of the following:
- 13 (1) Preferential reemployment and transfer rights of displaced
- 14 employees to comparable employment with the same employer for

1 *a period of no less than one year following the closure of the solid*
2 *waste facility.*

3 (2) *A program to provide displaced employees assistance in*
4 *finding comparable employment with other employers.*

5 (3) *For the purposes of this subdivision, “comparable*
6 *employment” means the same or a substantially similar job*
7 *classification at equal or greater wage and benefit levels.*

8 (b) Provisions to ensure that the amounts that the owner or
9 operator will deposit in the trust fund or equivalent financial
10 arrangement acceptable to the board will ensure ~~adequate~~
11 ~~resources~~ *that resources are available* for taking the actions
12 specified in subdivision (a).

13 (c) *An agreement to comply with Chapter 4 (commencing with*
14 *Section 1400) of Part 4 of Division 2 of the Labor Code.*

15 SEC. 2. Section 44004 of the Public Resources Code is
16 amended to read:

17 44004. (a) An operator of a solid waste facility may not make
18 a significant change in the design or operation of the solid waste
19 facility that is not authorized by the existing permit, unless the
20 change is approved by the enforcement agency, the change
21 conforms with this division and all regulations adopted pursuant
22 to this division, and the terms and conditions of the solid waste
23 facilities permit are revised to reflect the change.

24 (b) If the operator wishes to change the design or operation of
25 the solid waste facility in a manner that is not authorized by the
26 existing permit, the operator shall file an application for revision
27 of the existing solid waste facilities permit with the enforcement
28 agency. The application shall be filed at least 180 days in advance
29 of the date when the proposed modification is to take place unless
30 the 180-day time period is waived by the enforcement agency.

31 (c) The enforcement agency shall review the application to
32 determine all of the following:

33 (1) Whether the change conforms with this division and all
34 regulations adopted pursuant to this division.

35 (2) Whether the change requires review pursuant to Division
36 13 (commencing with Section 21000).

37 (d) Within 60 days from the date of the receipt of the
38 application for a revised permit, the enforcement agency shall
39 inform the operator, and if the enforcement agency is a local

1 enforcement agency, also inform the board, of its determination to
2 do any of the following:

3 (1) Allow the change without a revision to the permit.

4 (2) Disallow the change because it does not conform with the
5 requirements of this division or the regulations adopted pursuant
6 to this division.

7 (3) Require a revision of the solid waste facilities permit to
8 allow the change.

9 (4) Require review under Division 13 (commencing with
10 Section 21000) before a decision is made.

11 (e) The operator has 30 days within which to appeal the
12 decision of the enforcement agency to the hearing panel, as
13 authorized pursuant to Article 2 (commencing with Section
14 44305) of Chapter 4.

15 (f) Under circumstances that present an immediate danger to
16 the public health and safety or to the environment, as determined
17 by the enforcement agency, the 180-day filing period may be
18 waived.

19 (g) (1) A permit revision is not required for the temporary
20 suspension of activities at a solid waste facility if the suspension
21 meets either of the following criteria:

22 (A) The suspension is for the maintenance or minor
23 modifications to a solid waste unit or to solid waste management
24 equipment.

25 (B) The suspension is for temporarily ceasing the receipt of
26 solid waste at a solid waste management facility and the owner or
27 operator is in compliance with all other applicable terms and
28 conditions of the solid waste facilities permit and minimum
29 standards adopted by the board.

30 (2) An owner or operator of a solid waste facility who
31 temporarily suspends operations shall remain subject to the
32 closure and postclosure maintenance requirements of this division
33 and to all other requirements imposed by federal law pertaining to
34 the operation of a solid waste facility.

35 (3) The enforcement agency may impose any reasonable
36 conditions relating to the maintenance of the solid waste facility,
37 environmental monitoring, and periodic reporting during the
38 period of temporary suspension. The board may also impose any
39 reasonable conditions determined to be necessary to ensure
40 compliance with applicable state standards.

1 (h) (1) (A) Before making a final determination pursuant to
2 subdivision (d) or hearing an appeal pursuant subdivision (e), the
3 enforcement agency shall submit the proposed determination or
4 the appeal to the board for comment and hold at least one public
5 hearing on the proposed determination or the appeal. The
6 enforcement agency shall give notice of the hearing pursuant to
7 Section 65091 of the Government Code, except that the notice
8 shall be provided to all owners of real property within a distance
9 other than 300 feet of the real property that is the subject of the
10 hearing, if specified in the regulations adopted by the board
11 pursuant to subdivision (i). The enforcement agency shall also
12 provide notice of the hearing to the board when it submits the
13 proposed determination to the board.

14 (B) The enforcement agency shall mail or deliver the notice
15 required pursuant to subparagraph (A) at least 10 days prior to the
16 date of the hearing to any person who has filed a written request
17 for the notice with a person designated by the enforcement agency
18 to receive these requests. The enforcement agency may charge a
19 fee to the requester in an amount that is reasonably related to the
20 costs of providing this service and the enforcement agency may
21 require each request to be annually renewed.

22 (2) If the board comments pursuant to paragraph (1), the board
23 shall specify whether the proposed determination is consistent
24 with the regulation adopted pursuant to subdivision (i).

25 (i) (1) On or before January 1, 2005, the board shall adopt
26 regulations that implement subdivision (h) and define the term
27 “significant change in the design or operation of the solid waste
28 facility that is not authorized by the existing permit.”

29 (2) While formulating and adopting the regulations required
30 pursuant to paragraph (1), the board shall consider
31 recommendations of the Working Group on Environmental Justice
32 and the advisory group made pursuant to Sections 71113 and
33 71114 and the report required pursuant to Section 71115.

34 SEC. 3. Section 45011 of the Public Resources Code is
35 amended to read:

36 45011. (a) If an enforcement agency determines that a solid
37 waste facility or disposal site, is in violation of this division, any
38 regulations adopted pursuant to this division, any corrective action
39 or cease and desist order, or any other order issued under this
40 division, or poses a potential or actual threat to public health and

1 safety or the environment, the enforcement agency may issue an
2 order establishing a time schedule according to which the facility
3 or site shall be brought into compliance with this division. The
4 order may also provide for a civil penalty, to be imposed
5 administratively by the enforcement agency, in an amount not to
6 exceed five thousand dollars (\$5,000) for each day on which a
7 violation occurs, if compliance is not achieved in accordance with
8 that time schedule.

9 (b) Before issuing an order that imposes a civil penalty
10 pursuant to subdivision (a), an enforcement agency shall do both
11 of the following:

12 (1) Notify the operator of the solid waste facility that the
13 facility is in violation of this division.

14 (2) Upon the request of the operator of the solid waste facility,
15 meet with the operator of the solid waste facility to clarify
16 regulatory requirements and to determine what actions, if any, that
17 the operator may voluntarily take to bring the facility into
18 compliance by the earliest feasible date.

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 a local agency or school district has the authority to levy service
22 charges, fees, or assessments sufficient to pay for the program or
23 level of service mandated by this act, within the meaning of
24 Section 17556 of the Government Code.

